IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE SIDE

CRIMINAL REVISION APPLICATION NO.150 OF 2006

M/s.Interways Transport & Anr. .. Applicants.

V/s.

The State of Maharashtra & Anr. .. Respondents.

Shri.Leena Patil h/f. Shri.P.M.Pradhan for the applicants.
Shri.M.S.Mhambre, A.P.P. for the State.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 13TH DECEMBER, 2006

P.C.:

. The petitioners are aggrieved by an order passed below Exh.1 in Miscellaneous Civil Application No.368 of 2005.

. It appears that these proceedings are under Section 457 of Cr.P.C. The subject matter of the proceedings is immovable property. Ms.Patil appearing for the applicant submits that the second respondent could not

have been put in possession of this property as she is a licensee inducted by the present petitioner who is a tenant thereof. Thus, in law, the tenant having inducted a licensee, he could not have been put in exclusive possession of the said premises. More so, when the licnese has also expired.

. The application has been allowed on the basis of the materials/documents which are produced such as telephone bills and electricity supply bills. While it is true that the physical possession of the said shop had not been given to the licensee, the nature of the transaction being such, it cannot be said straightaway in law that she is entitled to the same. The licensee, according to the applicant, is inducted by a Tenant. The license has also expired. However, the impugned order is dated 13th January, 2006 and the second respondent was handed over the property on execution of Indemnity Bond. There is a condition also attached about alienation. In such circumstances, in my view, no useful purpose would be served by entertaining this application. Instead it is directed that the order passed by the lower court shall not in any manner prejudice the rights and contentions of the applicant before me in initiating and prosecuting such

proceedings against the second respondent as are permissible in law. In such proceedings, merely because the order is made in favour of the second respondent, that would not prevent the applicant in applying for appropriate interim reliefs. All contentions in that behalf of both sides are expressly kept open. All such proceedings to be decided without being influenced by the impugned order.

(S.C.Dharmadhikari, J.)